

## **REMARKS**

Claims 1-49 remain pending in the application. Claims 1-42 and 44-49 have been allowed. Claim 43 is rejected. Reconsideration is respectfully requested in light of the following remarks.

### **Double Patenting Rejection:**

The Office Action rejected claim 43 under the judiciary created doctrine of obviousness-type double patenting as being unpatentable over claim 47 of U.S. Serial No. 09/624,850. However, according to M.P.E.P. 804.I.B: "If the 'provisional' double patenting rejection in one application is the only rejection remaining in that application, the Examiner should then withdraw that rejection and permit the application to issue as a patent." According to M.P.E.P. 804.I.B, the double patenting rejection may then be dealt with in the other application. Since the provisional double patenting rejection is the only rejection remaining in the present application, the Examiner must withdraw the provisional double patenting rejection pursuant to M.P.E.P. 804.I.B and allow the present application to issue as a patent. Applicants are submitting a terminal disclaimer in the copending application (09/624,850) to deal with the double patenting rejection.

## CONCLUSION

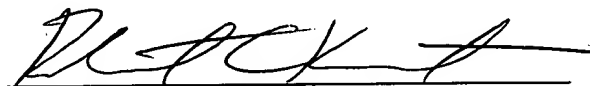
Applicant submits the application is in condition for allowance, and notice to that effect is requested.

If any extension of time (under 37 C.F.R. § 1.136) is necessary to prevent the above referenced application from becoming abandoned, Applicant hereby petitions for such extension. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5181-55200/RCK.

Also enclosed herewith are the following items:

- ☒ Return Receipt Postcard
- ☐ Petition for Extension of Time
- ☐ Notice of Change of Address
- ☐ Fee Authorization Form authorizing a deposit account debit in the amount of \$  
for fees (        ).
- ☐ Other

Respectfully submitted,



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